

August 22, 2000

Sent via e-mail and fax, hand delivery or U.S. Mail

Mary L. Cottrell, Secretary

Massachusetts Department of Telecommunications and Energy

One South Station, 2nd Floor

Boston, MA 02110

re: Verizon-Massachusetts' Section 271 Filing, D.T.E. 99-271

Dear Secretary Cottrell:

On August 17, 2000, the Department of Telecommunications and Energy ("Department" or "DTE") announced its decision not to incorporate documents from D.T.E. 98-57 Phase III, *Verizon-Massachusetts' DSL and DSL line sharing tariff*, into the record for D.T.E. 99-271.<sup>(1)</sup> The Attorney General, pursuant to 220 C.M.R. § 1:10(3)<sup>(2)</sup> and as directed by the Department,<sup>(3)</sup> submits his written request that the Department reconsider its decision, and incorporate by reference the Initial Brief ("Brief") filed by the Attorney General on August 17, 2000, in D.T.E. 98-57 Phase III, together with the exhibits and testimony referenced in the Brief, and make it part of the record for D.T.E. 99-271.

As previously stated during the August 17 hearing, the Attorney General submits that the current record developed in D.T.E. 99-271 will be insufficient for either the Department or the Federal Communications Commission ("FCC") to render a decision on Checklist Item Number 4 regarding digital subscriber line ("DSL") loops.<sup>(4)</sup> Checklist Item Number 4 includes DSL loops and requires Verizon to provide local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.<sup>(5)</sup> Unless the Department incorporates certain relevant information regarding

Verizon-Massachusetts' proposed DSL and DSL line sharing tariff contained in D.T.E. 98-57 Phase III, neither the Department nor the FCC can appropriately address, or render a decision on, Verizon's submission. The Attorney General, in his Brief, recommended that the Department modify Verizon-Massachusetts' DSL tariff as follows:

1. The data competitive local exchange carriers ("DLECs") should have access to loops containing digital loop carriers;
2. DSL line sharing rates should be priced more accurately;
3. The Department should reduce certain intervals and mechanize Verizon's DSL line sharing operation support systems ("OSS") by April 1, 2001; and
4. The Department should reference DSL and DSL line sharing metrics in the tariff.<sup>(6)</sup>

Incorporation by reference of the Brief and underlying exhibits and testimony is the most administratively efficient method of ensuring a complete record on this issue. The Attorney General sees no reason to duplicate the record in D.T.E. 98-57 Phase III through cross-examination in this proceeding when the Department's rules provide an efficient remedy.

Given the emphasis placed by the FCC on DSL issues in its prior decisions regarding New York and Texas Section 271 applications,<sup>(7)</sup> the Department would be remiss in not including relevant information from D.T.E. 98-57 Phase III into this proceeding, whether by incorporation by reference or by direct filing. Exhibit "A," enclosed with this letter, will help the Department identify the particular portions of the D.T.E. 98-57 Phase III record which, in the Attorney General's view, the Department should incorporate in the D.T.E. 99-271 record on DSL issues.<sup>(8)</sup>

Sincerely,

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Karlen J. Reed

Assistant Attorney General

Regulated Industries Division

Office of the Attorney General

200 Portland Street, 4th Floor

Boston, MA 02114

(617) 727-2200

KJR/kr

cc: Chairman James Connelly

Commissioner W. Robert Keating

Commissioner Paul B. Vasington

Commissioner Eugene J. Sullivan, Jr.

Commissioner Dierdre K. Manning

Cathy Carpino, Hearing Officer

Tina W. Chin, Hearing Officer

Service list for D.T.E. 99-271

**EXHIBIT "A" - Referenced Exhibits and Testimony in D.T.E. 98-57 Phase III**

Document	D.T.E. 98-57 Phase III Referenced Exhibits and Testimony
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Number	
1	Transcripts of evidentiary hearings held on August 1-3, 2000.
2	Rhythms/Covad Direct Testimony.
3	Rhythms record response to RR-DTE-13.
4	RLI/CVD Exhibits 116, 117, and 119.
5	Verizon Rebuttal Testimony.
6	DBC Direct Testimony at 16.
7	Covad's record response to RR-AG-1.

**COMMONWEALTH OF MASSACHUSETTS**  
**DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

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Inquiry by the Department of Telecommunications )  
and Energy pursuant to Section 271 of the )  
Telecommunications Act of 1996 into the Compliance ) D.T.E. 99-271  
Filing of New England Telephone and Telegraph Company )  
d/b/a Bell Atlantic-Massachusetts as part of its application )  
to the Federal Communications Commission for entry into )  
the in-region interLATA (long distance) telephone market. )  
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## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding by e-mail and either hand delivery, mail, or fax.

Dated at Boston this 22nd day of August 2000.

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Karlen J. Reed

Assistant Attorney General

Regulated Industries Division

200 Portland Street, 4th Floor

Boston, MA 02114

(617) 727-2200

1. Tr. Vol. 22 at 2532-2533. Rhythms Links expressed its support for reconsideration at the hearing. *Id.* at 2544. The presiding hearing officer, at a break during the August 17 hearing, allowed counsel until Tuesday, August 22, 2000, to file written requests for reconsideration on incorporation into the record.

2. 220 CMR § 1.10(3) provides that:

Any matter contained in any records, investigations, reports and documents in the possession of the Department of which a party or the Department desires to avail itself as evidence in making a decision, shall be offered and made a part of the record in the proceeding. Such records and other documents need not be produced or marked for identification, but may be offered in evidence by specifying the report, document or other file containing the matter so offered.

3. Tr. Vol. 22 at 2543-2544.

4. Tr. Vol. 22 at 2543.

5. Section 271(c)(2)(B)(iv) of the Telecommunications Act of 1996. Verizon is required to offer unbundled DSL loops to data competitive local exchange carriers ("DLECs") in a tariff format pursuant to orders by the Department and the FCC. Brief at 2.

6. Brief at 2.

7. *See* Attorney General's July 18, 2000, Comments, D.T.E. 99-271, at 3-4, 7-10.

8. The Attorney General is aware that other parties may wish to include other materials from D.T.E. 98-57 Phase III. Therefore, the Attorney General will work with those parties to supplement Exhibit "A" and provide the Department with a comprehensive list for the record of all documents to be incorporated by reference consistent with the approach used in other recent dockets. *See Cambridge Electric Light Company/Commonwealth Electric Company*, D.T.E. 99-90 (an agreed upon list of exhibits and transcripts from the Companies' restructuring docket, D.T.E. 97-111 and asset divestiture docket, D.T.E. 98-78, was developed to assist the Department in its decision).